IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4397 OF 2004

Prashant Ramdas Mallapur & ors. ... Applicants

versus

State of Maharashtra ... Respondent

...

Mr. I. A. Bagaria, for the Applicants.

Mr. V.B. Konde Deshmukh, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

19th October 2004

P.C.:

. Heard Counsel for the parties. Perused the record. The apprehension of the Applicants is that they are likely to be arrested in connection with CR.No.89/2004 registered with Mangaon Police Station, Raigad, for offences punishable under sections 147, 148, 149, 323, 504 and 508, I.P.C.; and section 3(i)(vi) and (x) of the Prevention of Atrocities Act. It is not in dispute that offences other than the provisions

of the Prevention of Atrocities Act referred to above are bailable. The Court below has rejected the anticipatory bail application essentially on the ground of bar under section 18 of the Prevention of Atrocities Act to entertain such application. Indeed, the Court below has also noted that the bar is not absolute, but still preferred to reject the anticipatory bail application preferred by the Applicants. The argument as was canvassed before the Court below and also reiterated before this Court is that going by the prosecution version, as occurring in the first information report, it is stated that the Applicants are not familiar with Marathi language as can be discerned from the second para on page 27. Inspite of this, in the penultimate para, the complainant has attributed utterances by the Applicants which would attract the provisions of the Prevention of Atrocities Act. If the Applicants are not familiar with Marathi language, it is preposterous to allege that the Applicants have uttered the expressions referred to in the penultimate para of the F.I.R. Obviously, that has been done only to ensure that the Applicants will be kept in custody and not be entitled to avail bail. If such is the purpose

of making false accusations against the Applicants, surely, in the interest of justice, the Applicants deserve to be enlarged on anticipatory bail on the following terms.

(a) The Applicants are granted anticipatory bail in connection with CR.No. 89/2004 registered with Mangaon Police Station, on executing personal bond in the sum of Rs.5,000 (Rupees Five thousand) each with two local sureties in the like amount.

(b) The Applicants shall abide by the conditions mentioned in section 438(2) of the Code of Criminal Procedure, as applicable to the State of Maharashtra.

. Application disposed of accordingly.

. Parties to act on the authenticated copy of this order.

(A.M.KHANWILKAR,J.)